

## Wage and Hour Division, Labor

## § 780.2

### EXEMPT TRANSPORTATION OF FRUIT OR VEGETABLE HARVEST EMPLOYEES

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AUTHORITY: Secs. 1–19, 52 Stat. 1060, as amended; 75 Stat. 65; 29 U.S.C. 201–219. Pub. L. 105–78, 111 Stat. 1467.

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### Subpart A—Introductory

#### § 780.0 Purpose of interpretative bulletins in this part.

It is the purpose of the interpretative bulletins in this part to provide an official statement of the views of the Department of Labor with respect to the application and meaning of the provisions of the Fair Labor Standards Act of 1938, as amended, which exempt certain employees from the minimum

wage or overtime pay requirements, or both, when employed in agriculture or in certain related activities or in certain operations with respect to agricultural or horticultural commodities.

#### § 780.1 General scope of the Act.

The Fair Labor Standards Act is a Federal statute of general application which establishes minimum wage, overtime pay, equal pay, and child labor requirements that apply as provided in the Act. These requirements are applicable, except where exemptions are provided, to employees in those workweeks when they are engaged in interstate or foreign commerce or in the production of goods for such commerce or are employed in enterprises so engaged within the meaning of definitions set forth in the Act. Employers having such employees are required to comply with the Act's provisions in this regard unless relieved therefrom by some exemption in the Act, and with specified recordkeeping requirements contained in part 516 of this chapter. The law authorizes the Department of Labor to investigate for compliance and, in the event of violations, to supervise the payment of unpaid minimum wages or unpaid overtime compensation owing to any employee. The law also provides for enforcement in the courts.

#### § 780.2 Exemptions from Act's requirements.

The Act provides a number of specific exemptions from the general requirements described in § 780.1. Some are exemptions from the overtime provisions only. Others are from the child labor provisions only. Several are exemptions from both the minimum wage and the overtime requirements of the Act. Finally, there are some exemptions from all three—minimum wage, overtime pay, and child labor requirements. An employer who claims an exemption under the Act has the burden of showing that it applies (*Walling v. General Industries Co.*, 330 U.S. 545; *Mitchell v. Kentucky Finance Co.*, 359 U.S. 290). Conditions specified in the language of the Act are “explicit prerequisites to exemption” (*Arnold v. Kanowsky*, 361 U.S. 388). “The details with which the exemptions in this Act have been made

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preclude their enlargement by implication” and “no matter how broad the exemption, it is meant to apply only to” the specified activities (*Addison v. Holly Hill*, 322 U.S. 607; *Maneja v. Waialua*, 349 U.S. 254). Exemptions provided in the Act “are to be narrowly construed against the employer seeking to assert them” and their application limited to those who come “plainly and unmistakably within their terms and spirit” (*Phillips v. Walling*, 334 U.S. 490; *Mitchell v. Kentucky Finance Co.*, 359 U.S. 290; *Arnold v. Kanowsky*, 361 U.S. 388).

#### § 780.3 Exemptions discussed in this part.

(a) The specific exemptions which the Act provides for employment in agriculture and in certain operations more or less closely connected with the agricultural industry are discussed in this part 780. These exemptions differ substantially in their terms, scope, and methods of application. Each of them is therefore separately considered in a subpart of this part which, together with this subpart A, constitutes the official interpretative bulletin of the Department of Labor with respect to that exemption. Exemptions from minimum wages and overtime pay and the subparts in which they are considered include the section 13(a)(6) exemptions for employees on small farms, family members, local hand harvest laborers, migrant hand harvest workers under 16, and range production employees discussed in subpart D of this part, and the section 13(a)(14) exemption for agricultural employees processing shade-grown tobacco discussed in subpart F of this part.

(b) Exemptions from the overtime pay provisions and the subparts in which these exemptions are discussed include the section 13(b)(12) exemption (agriculture and irrigation) discussed in subpart E of this part, the section 13(b)(13) exemption (agriculture and livestock auction operations) discussed in subpart G of this part, the section 13(b)(14) exemption (country elevators) discussed in subpart H of this part, the section 13(b)(15) exemption (cotton ginning and sugar processing) discussed in subpart I of this part, and the section 13(b)(16) exemption (fruit and vegetable

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harvest transportation) discussed in subpart J of this part.

(c) An exemption in section 13(d) of the Act from the minimum wage, overtime pay, and child labor provisions for certain homeworkers making holly and evergreen wreaths is discussed in subpart K of this part.

#### § 780.4 Matters not discussed in this part.

The application of provisions of the Fair Labor Standards Act other than the exemptions referred to in § 780.3 is not considered in this part 780. Interpretative bulletins published elsewhere in the Code of Federal Regulations deal with such subjects as the general coverage of the Act (part 776 of this chapter) and of the child labor provisions (subpart G of part 1500 of this title which includes a discussion of the exemption for children employed in agriculture outside of school hours), partial overtime exemptions provided for industries of a seasonal nature under sections 7(c) and 7(d) (part 526 of this chapter) and for industries with marked seasonal peaks of operations under section 7(d) (part 526 of this chapter), methods of payment of wages (part 531 of this chapter), computation and payment of overtime compensation (part 778 of this chapter), and hours worked (part 785 of this chapter). Regulations on recordkeeping are contained in part 516 of this chapter and regulations defining exempt administrative, executive, and professional employees, and outside salesmen are contained in part 541 of this chapter. Regulations and interpretations on other subjects concerned with the application of the Act are listed in the table of contents to this chapter. Copies of any of these documents may be obtained from any office of the Wage and Hour Division.

#### § 780.5 Significance of official interpretations.

The regulations in this part contain the official interpretations of the Department of Labor with respect to the application under described circumstances of the provisions of law which they discuss. These interpretations indicate the construction of the law which the Secretary of Labor and the Administrator believe to be correct